

**FLATHEAD COUNTY PLANNING BOARD  
MINUTES OF THE MEETING  
MARCH 13, 2019**

<b>CALL TO ORDER</b> <i>6:00 pm</i>	A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. at South Campus Building, 40 11 <sup>th</sup> Street W, Ste. 200, Kalispell, Montana. Board members present were Jeff Larsen, Greg Stevens, Sandra Nogal, Mike Horn, Dean Sirucek, Ron Schlegel, and Elliot Adams. James Thompson and Kevin Lake had excused absences. Mark Mussman, Rachel Ezell, Erik Mack, and Donna Valade represented the Flathead County Planning & Zoning Office.  There were 17 members of the public in attendance.
<b>APPROVAL OF MEETING MINUTES</b> <i>6:01 pm</i>	Nogal made a motion, seconded by Horn, to approve the February 13, 2019 minutes.  Sirucek asked that a section of page 9 be amended. The change was noted.  Motion to approve minutes as amended passed unanimously on a roll call.
<b>PUBLIC COMMENT</b> <i>(Public matters that are within the jurisdiction of the Board 2-3-103 M.C.A)</i> <i>6:03 pm</i>	Chaney Ockert, 255 Echo Chalet, addressed the board. She commented that she was a 4th generation Montanan. She appreciated what people out of state brought to the area but felt affordable housing was a serious issue that needed to be addressed. It saddened her that it was difficult for locals who worked in banks, schools, fire houses, forest service etc. to be able to buy housing. She questioned what it would mean to go back to the values of Montana where the rich and poor lived next to each other. She asked the board to consider these things when looking in to subdivisions that have language preventing affordable housing.
<b>BOARD DISCLOSURE OF ANY CONFLICT OF INTEREST</b> <i>6:06 pm</i>	None
<b>YOUNG ZONE CHANGE (FZC-19-01)</b> <i>6:07 pm</i>	A zone change request from Robert W. & Christi S. Young for properties located at 1185 and 1195 Highway 83 in Bigfork, MT within the Bigfork Zoning District. The proposal would change the zoning on two parcels containing approximately 1.5 acres from CCC-1 ( <i>Commercial Country Corner-Class I</i> ) to B-2 ( <i>General Business</i> ).

**STAFF REPORT**  
**6:07 pm**

Erik Mack reviewed staff report FZC-19-01 for the board.

**BOARD  
QUESTIONS**  
**6:09 pm**

Nogal questioned if the property was on septic and well. She questioned if it was challenging that they preferred the zoning to be on sewer. She also saw it as problematic that it was near B-2 zoning and the potential of strip development and wondered how to prevent strip zoning. Mack said there was not much they could do because they do not do site plan reviews for B-2 zoning.

Nogal asked what the purpose for the zone change was and if the applicants had any immediate plans. Mack said they did not have immediate plans but wanted to be consistent with surrounding uses. The current uses would be permitted in B-2 zoning. There would only be 1 or 2 that would be grandfathered in.

**APPLICANT  
PRESENTATION**  
**6:11 pm**

Mark Herman, 195 Wolf Creek Drive, was there on behalf of his in laws who owned the property. The applicants owned Echo Lake Café and he described the current property and uses. He said, under the current zoning, there was very limited use as far as the office building was concerned. They wanted the future businesses that would rent that space to comply with the zoning. They felt most businesses, that would want to rent there, would fall under B-2 zoning.

**BOARD  
QUESTIONS**  
**6:12 pm**

None

**AGENCY  
COMMENTS**  
**6:13 pm**

There were no public agencies present to comment. Larsen acknowledged that staff reviewed the written comments received.

**PUBLIC  
COMMENT**  
**6:13 pm**

None

**MAIN MOTION  
TO ADOPT F.O.F.  
(FZC-19-01)**  
**6:13 pm**

Sirucek made a motion, seconded by Nogal, to adopt staff report FZC-19-01 as findings of fact.

**BOARD  
DISCUSSION**  
**6:14 pm**

None

**ROLL CALL TO**

Motion was passed unanimously on a roll call vote.

**ADOPT F.O.F.  
(FZC-19-01)  
6:14 pm**

**MAIN MOTION  
TO  
RECOMMEND  
APPROVAL  
(FZC-19-01)  
6:14 pm**

Schlegel made a motion, seconded by Sirucek, to recommend approval of FZC-19-01 to the County Commissioners.

**BOARD  
DISCUSSION  
6:14 pm**

None

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FZC-19-01)  
6:14 pm**

The motion passed unanimously on a roll call vote.

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**SKYVIEW  
MOBILE HOME  
PARK, LLC  
ZONE CHANGE  
(FZC-19-02)  
6:15 pm**

A zone change request from Sands Surveying, Inc. on behalf of Skyview Mobile Home Park, LLC for property located at 78 West Cottonwood within the Evergreen Zoning District. The proposal would change the zoning on a parcel containing approximately 2.57 acres from *R-2 (One-Family Limited Residential)* to *R-5 (Two-Family Residential)*.

**STAFF REPORT  
6:15 pm**

Donna Valade reviewed staff report FZC-19-02 for the board.

**BOARD  
QUESTIONS  
6:17 pm**

None

**APPLICANT  
PRESENTATION  
6:17 pm**

Eric Mulcahy with Sands Surveying, 2 Village Loop, represented the applicants. He said the intention was to develop a manufactured home subdivision, which was similar to what was in the area. He said they had already put fill on the site to bring it out of the floodplain. There were currently a number of mobile homes and a mobile home subdivision in that area; keeping up with the character of the area. It was also a transitional area to commercial development. It had good access and had city sewer and water availability.

**BOARD  
QUESTIONS  
6:18 pm**

Stevens wondered if they were going to be individually platted lots or a mobile home court. Mulcahy said he was not exactly sure because they had another consultant working on the subdivision application for review.

Schlegel said he had been out to the area and noticed there were trailer houses to the east where the fill was about ½ way up. He was concerned about drainage issues and did not want runoff to go into the other trailer court. Mulcahy said that would be a part of the subdivision plan to facilitate the drainage.

Sirucek wondered how far away the fill was to the [Whitefish River] in the area. Mulcahy said the Evergreen floodplain was an accumulation of the Flathead, Stillwater, and Whitefish Rivers where they converged. In 2013 they redid the FEMA maps and a lot of the area that had been out of the floodplain was put back in. The applicant had already been through the floodplain permitting process to fill the site. They will also be proceeding with a letter of map amendment that will remove that from FEMA's A zone. He believed it was about a ½ mile from the Whitefish River. Sirucek was wondering if it was in the backwater flood plain.

**AGENCY  
COMMENTS  
6:23 pm**

There were no public agencies present to comment. Larsen acknowledged that staff had reviewed the written comments received.

**PUBLIC  
COMMENT  
6:23 pm**

None

**MAIN MOTION  
TO ADOPT F.O.F.  
(FZC-19-02)  
6:23 pm**

Nogal made a motion, seconded by Schlegel, to adopt staff report FZC-19-02 as findings of fact.

**BOARD  
DISCUSSION  
6:24 pm**

None

**ROLL CALL TO  
ADOPT F.O.F.  
(FZC-19-02)  
6:24 pm**

Motion was passed unanimously on a roll call vote.

**MAIN MOTION  
TO  
RECOMMEND  
APPROVAL  
(FZC-19-02)**

*6:24 pm*

Schlegel made a motion, seconded by Nogal, to recommend approval of FZC-19-02 to the County Commissioners.

**BOARD  
DISCUSSION**

*6:24 pm*

Stevens noted that he felt that it was an appropriate location and would make a small contribution to affordable housing in the Kalispell area.

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FZC-19-02)**

*6:25 pm*

The motion passed unanimously on a roll call vote.

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**THE  
SETTLEMENT  
SUBDIVISION  
(FPP-18-12)**

*6:25 pm*

A request from Bigfork 26, LLC with technical assistance from Carstens and Associates for preliminary plat approval of 'The Settlement', a subdivision proposal to create 11 commercial lots and 68 residential lots on approximately 68 acres within the Bigfork Zoning District. The applicant is proposing to connect to Bigfork Water and Sewer District and access would be from Highway 35. The property is located at 7645 MT Highway 35, near Bigfork, MT and is zoned B-2 (General Business) and R-2 (One Family Limited Residential).

**STAFF REPORT**

*6:26 pm*

Rachel Ezell reviewed staff report FPP-18-12 for the board.

**BOARD  
QUESTIONS**

*6:34 pm*

None

**APPLICANT  
PRESENTATION**

*6:34 pm*

Marc Carsten with Carsten & Associates, 402 1<sup>st</sup> Street W., explained he had issues with findings of facts as adopted by the Bigfork Land Use Advisory Committee (BLUAC) and noted that the BLUAC meeting was primarily concerned with the Bigfork Neighborhood Plan, which is not a regulatory document and not subdivision standards. He discussed the conditions that BLUAC recommended to change in which he *was* in agreement and would accommodate most of the items. He did have some concerns about a few and discussed those. The review at BLUAC pertained to housing affordability and not what the current zoning allowed for. The subdivision proposal was not the problem, it was the underlying zoning that had been approved and recommended by BLUAC. Curvilinear roads were designed to reduce traffic speeds. The cul-de-sac issue with the Bigfork Fire Department had been resolved. There was a space planned for school bus pick up/drop off. He



**BOARD  
QUESTIONS**  
*6:45 pm*

wished to see the Findings of Facts go back as written by staff. He also discussed the issue of schools, response time by Flathead County sheriffs, and the neighborhood plan in relationship to the preliminary plat proposal.

Stevens recalled that a commissioner could not turn down a subdivision based only on the growth policy. Carsten noted that it was MCA 76-1-605(2)(b).

Larsen asked that Carsten summarize the traffic study submitted. Carsten said they had hired Abelin to do the traffic analysis. He discussed how it was complicated and had it prepared with the knowledge that MDOT was already looking at a design to improve that stretch of HWY 35. With that in mind, they had turned in the traffic analysis and the subdivision application to DOT for a committee review. They had not gotten the design criteria back from the DOT. They understood they were unable to get a highway approach permit until they saw what DOT requirements would be.

Sirucek asked that Carsten address the comment from Fish and Wildlife. Carsten noted they felt they would be able to accommodate the vast majority of the comments via covenants. It was harder to accommodate the fenced pond and it seemed contradictory with statement that fencing needed to be tight around the pond and open around the residential properties. The setbacks also did not appear appropriate because of the topographic relief around the pond.

Larsen asked if the lots would be developable with the FWP setback recommendations. Carsten noted that 2-3 lots would be challenging to develop.

Sirucek discussed previous levels and the fluctuation of the pond. He said it was currently lower from what he had seen in the last few years. He was concerned about the future elevation of the pond and believed it would increase. Carsten explained the topography of the area and where the water would go should it rise.

Adams wanted to know if access from Highway 83 had been contemplated. Carsten explained that it was considered but the problem was the cost of those improvements would be shouldered by the developer. Instead, they focused on developing the approaches to Highway 35 as recommended by MDT.

Stevens noted the FWP comments seemed contradictory.

**AGENCY  
COMMENTS**  
*7:02 pm*

There were no agencies present to comment. Larsen discussed written comments received. It was decided they would take a break to review the comments that had been given to them just prior to the meeting.

**BREAK**  
*7:03 pm*

**PUBLIC  
COMMENT**  
*7:12 pm*

Chaney Ockert, 255 Echo Chalet, was a member of BLUAC and said, when the zone change request came before them a year ago, it had been requested by Marina Cay with the intention to create a subdivision with affordable housing for their employees. It was with that knowledge that BLUAC recommended a positive recommendation. That was also why they had so many questions when this subdivision review came before them recently.

Paul Eslick, 300 Swan Highway, had property that bordered the subdivision on two sides. He was neither pro nor against the subdivision but had a few thoughts to share. He said he would be interested in a cost share fencing around his lands and the developer's. They were amendable to that and he wanted to go on record. He said that the access on Highway 35 was a nightmare, especially during the summertime. He would like to see DOT mandate the speed limit be 35 all the way to Icebox Canyon. He could foresee a light going in. He also wondered if Fodness Court was a cul-de-sac or if there was going to be a mailbox or community center within 100' of his pasture. He also addressed the comment from FWP and was concerned about a rippled effect on regulating small lakes. The water level was as high as he had ever seen it. He addressed the suggestion of an access off of highway 83 and was not too keen on selling an easement over his hay field. He also wanted to remind everyone that he had a right to farm his land, and therefore if he was out at 1 in the morning on his tractor, don't call the sheriff.

Hank Brancaccio, 1180 Holt Dr., was in opposition of the application. He was concerned about the current traffic conditions already being unsafe. He also addressed the proposed by-laws and found nothing that related to the commercial buildings. He wondered how big the buildings would be, what type of buildings they would be, and what type of businesses would go in. He wanted to see some restrictions on the commercial buildings. He was also concerned about what the architectural entrance would look like. He said the reason why people came in to Bigfork because of what it had to offer and he was concerned what it would look like coming off of Hwy 35.

Ed Blackler, 33435 Border Circle Way, was in opposition of the application. He was involved with the steering committee that developed the Bigfork Neighborhood Plan. Surveys involved showed that people did not want

Bigfork to change. He did not want to see the property developed any other way. He said his first objection to the application was that it happened to be the gateway to Bigfork. What they could currently see was the view shed, which was the character of Bigfork. He enjoyed seeing the wildlife. He did not want to look across and see buildings, especially the commercial buildings. He said the reason people came to Bigfork was for the viewshed. He wished that people would let it be. He was a full-time school bus driver and could attest to how horrible the traffic was and felt it would only become more dangerous. He felt that an access on 83 would be preferable and also that the setback from the highway should be greater than 60' with conditions placed so that it would be beautiful. He asked that they think about the Bigfork Neighborhood plan.

Marc Russo, 789 Swan River Road, wanted to reiterate what had been said prior. He brought up that the elementary school was over capacity. He asked how that would be addressed.

Karen Sykes, 1034 Lake Pointe Dr, spoke in opposition of the application. She said that the drawing did not look as esthetically pleasing and did not fit with the Bigfork area. She felt that that many houses in the area was a real crime.

**BOARD  
DISCUSSION  
7:33 pm**

Larsen ask Carsten to address a few of the questions that arose during public comment.

Carsten said that there was no plan to have a community center or bus stop in the Fodness Court cul-de-sac. It was all scheduled to be in the Wells cul-de-sac, which was closer to Hwy 35 and easier access.

Larsen addressed the concerns regarding the overcrowding of the schools. He said the legislative had passed a law that a subdivision could not be denied based on school impact. Russo said he wasn't saying it should be turned down because of that, he wanted to know what they planned to do to address the influx of students going there. Larsen said that it should be something addressed with the school district. Schlegel addressed the public and said that he had served on a school board before and explained that schools received a certain amount of money per child, depending on the age, per year. That was how it was based off of. If overcrowding became an issue, those out of district that attended, would no longer be allowed to. Ultimately, they would go to the tax payers with a levy to expand. He used West Valley School District as an example.



Sirucek asked Ockert what mitigation would be appropriate to allow for affordable housing. They discussed what options there might be. Ockert brought up the program Habitat for Humanity being a viable program that would create some options. She suggested the developer remove conditions of housing size and garages from CC&Rs.

Stevens explained he had been an advocate for affordable housing but it required density. Density was polarizing and he realized that most people did not want to see affordable homes next door because it reduced their property value.

Nogal believed that mixed income neighborhoods were needed. With some architectural details and landscaping, high end and affordable housing could exist together. In her experience, affordable housing usually came from a philanthropic movement.

Schlegel explained that the speed limits on Highway 35 were determined by MDT and not the county. He also noted that the suggested fencing from FWP was a suggestion only and should be taken as such. He would like to see a cost share fence between the subdivision and adjacent property as requested by Eslick. Carsten felt it was a real viable and good option. He implied that his employer agreed but Carsten was not in a place to say that it was officially going to happen or not. The developer had indicated to Carsten that, if the subdivision were to be viable and approved, it was a solution that he was willing to look at favorably.

**APPLICANT  
REBUTTAL**  
*7:52 pm*

Carsten said the issues that were brought up, i.e. density and lack of affordable housing, did not fit together. He said the lots were offered as being for sale. The current people involved with the development were not going to build the houses. They were trying to develop saleable lots. He pointed out that it did not preclude someone buying lots in a philanthropic manner. He also reminded everyone that an HOA could be amended and does many times by the Home Owner's Association.

**STAFF  
REBUTTAL**  
*7:54 pm*

Staff wanted to clarify that staff only contacted the school district once. They also clarified that the Sheriff's Department had been contacted but they did not receive a response outside of a standard response received. The language in the staff report was essentially the same as every staff report.

**MAIN MOTION  
TO ADOPT F.O.F.  
(FPP-18-12)  
7:55 pm**

Sirucek made a motion, seconded by Nogal, to adopt staff report FPP-18-12 as findings of fact.

**BOARD  
DISCUSSION  
7:55 pm**

The board discussed with staff whether the BLUAC findings were recommendations or if they stood as the updated findings. Staff replied it was a recommendation.

**MOTION  
WITHDRAWN  
7:57 pm**

Motion was withdrawn by Sirucek and Nogal.

**MAIN MOTION  
TO ADOPT F.O.F.  
(FPP-18-12)  
7:57 pm**

Sirucek made a motion, seconded by Nogal, to adopt staff report FPP-18-12 as findings of fact.

**BOARD  
DISCUSSION  
7:57 pm**

Stevens addressed the BLUAC minutes and recommendations. He found some of the conditions to be problematic, particularly the finding regarding the sheriff's response time and the school's capacity issues. He also took issue with Finding #20 because the issue of affordable housing was not the only concern of the Bigfork Neighborhood Plan.

Larsen addressed the BLUAC findings given. He said Finding #7 was a typical response from the Sheriff's office. With regard to affordable housing, he saw that people moved from one housing level to another. He would like to see the CC&R's amended to reduce housing size by the applicant.

**ROLL CALL TO  
ADOPT F.O.F.  
(FPP-18-12)  
8:04 pm**

Motion was passed unanimously on a roll call vote.

**MAIN MOTION  
TO  
RECOMMEND  
APPROVAL  
(FPP-18-12)  
8:04 pm**

Stevens made a motion, seconded by Adams, to recommend approval of FPP-18-12 to the County Commissioners.

**BOARD  
DISCUSSION  
8:05 pm**

Nogal was concerned with the vision for the B-2 zoned property. It was explained that there wasn't a specific vision but they would use B-2 zoning as

the guide for whatever the market will support.

Sirucek asked if there were any architectural standards for the commercial lots. Carsten said they did not have any at this time.

Sirucek grew up in Bigfork and he understood the concerns raised but explained that the proposal was taking some productive farmland out of use. He liked that it was high enough density to see some offset to the social cost benefit and also that it was on Bigfork Water and Sewer. He was going to support it even though there were some things that he did not like about it. He hoped that the developers would listen to some of the things that were shared that evening in regards to some of the design criteria and landscaping.

Schlegel stated he hoped they would be good neighbors to Bigfork.

Larsen noted that he did not think the subdivision regulations would allow for requiring a border fence. He wanted mentioned that the zoning was adopted after being vetted by the community and Commissioners. The proposal complied with the health safety and general welfare of the community. Once it was zoned, it was difficult to deny the project because it had already been vetted for that and complied with the zoning. He did appreciate the communication about affordable housing passed on to the developer. He also stated that he hoped the developer would work a little bit more with the community.

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FPP-18-12)  
8:16 pm**

The motion passed unanimously on a roll call vote.

**OLD BUSINESS  
8:20 pm**

Mussman went over the director memo on possible ways the board could process the consolidation of the AG zones in the text amendment regulations. Mussman believed were two main objections that arose from the public hearings; trying to protect the large tracts and preserving the "family farm". They discussed this in great length and decided it would best be addressed during the growth policy update.

**NEW BUSINESS  
8:56 pm**

None

**MEETING  
ADJOURNED**  
**8:56 pm**

The meeting was adjourned on a motion by Schlegel and larsen at approximately 8:56 pm. The next meeting will be held on April 10, 2019.

  
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Jeff Larsen, Chairman

  
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Angela Phillips, Recording Secretary

*APPROVED AS SUBMITTED/CORRECTED: 04/10/2019*